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HOUSE BILL 622

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Andy Nuñez

AN ACT

**RELATING TO HIGHER EDUCATION; AMENDING THE POST-SECONDARY
EDUCATIONAL INSTITUTION ACT TO PROVIDE FOR LICENSURE AND
REGULATION OF NONREGIONALLY ACCREDITED COLLEGES AND
UNIVERSITIES; EXEMPTING ORGANIZATIONS THAT OFFER BRIEF COURSES
OF INSTRUCTION IN SPECIFIC SKILLS TRAINING; ALLOWING FOR
ADMINISTRATIVE FEES; PRESCRIBING ADMINISTRATIVE PENALTIES;
MAKING AN APPROPRIATION.**

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**Section 1. Section 21-23-3 NMSA 1978 (being Laws 1971,
Chapter 303, Section 3, as amended) is amended to read:**

**"21-23-3. DEFINITIONS. -- As used in the Post-Secondary
Educational Institution Act:**

**A. [~~"board"~~or] "commission" means the commission
on higher education;**

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1 B. "career school" means a private post-secondary
2 educational institution offering a formal educational
3 curriculum in New Mexico for a fee to members of the general
4 public beyond compulsory school age, terminating in a
5 certificate, diploma, associate degree or comparable
6 confirmation of completion of the curriculum;

7 C. "college" or "university" means a private
8 post-secondary educational institution offering a formal
9 educational curriculum in New Mexico for a fee to members of
10 the general public beyond compulsory school age, terminating in
11 a baccalaureate, master's or doctoral degree or comparable
12 confirmation of completion of the curriculum;

13 D. "license" means a written [~~acknowledgement~~]
14 acknowledgment by the commission that a career school or
15 nonregionally accredited college or university has met the
16 requirements of the commission for offering a formal
17 educational curriculum within New Mexico;

18 E. "post-secondary educational institution"
19 includes an academic, vocational, technical, business,
20 professional or other school, college or university or other
21 organization or person, from a physical site in New Mexico,
22 offering or purporting to offer courses, instruction, training
23 or education through distance education, correspondence or in
24 person [~~to any person within this state~~]; and

25 F. "registration" means a written [~~acknowledgement~~]

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1 acknowledgment by the ~~commission~~ that a regionally accredited
2 college or university has filed pertinent curriculum and
3 enrollment information as required by the ~~commission~~. "

4 Section 2. Section 21-23-4 NMSA 1978 (being Laws 1971,
5 Chapter 303, Section 4, as amended) is amended to read:

6 "21-23-4. EXCEPTIONS. --

7 A. The Post-Secondary Educational Institution Act
8 does not apply to or affect:

9 [A.—any] (1) a post-secondary educational
10 institution supported in whole or in part by state or local
11 taxation;

12 [B.—any] (2) an occupational, trade or
13 professional school operating pursuant to any New Mexico
14 occupational licensing law;

15 [C.—any] (3) a course of instruction provided
16 by an employer to its own employees for training purposes;

17 [D.—] (4) institutions that exclusively
18 [~~offering~~] offer education that is solely avocational or
19 recreational in nature;

20 [E.—any] (5) a course of instruction or study
21 sponsored by a recognized fraternal, trade, business or
22 professional organization or labor union for the instruction of
23 its members;

24 [F.—any] (6) a regionally accredited college
25 or university that is a private institution that provides an

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1 academic education comparable to that provided by public
2 colleges or universities;

3 ~~[G.]~~ (7) proprietary schools as defined in
4 Section 21-24-2 NMSA 1978;

5 ~~[H.]~~ (8) chartered, nonprofit religious
6 institutions whose sole purpose is to train students in
7 religious disciplines to prepare them to assume a vocational
8 objective relating primarily to religion;

9 ~~[I.]~~ (9) institutions that exclusively
10 ~~[offering]~~ offer instruction at any level from preschool
11 through the twelfth grade; ~~[and~~

12 ~~J.—any]~~ (10) an institution funded in full or
13 in part by an Indian tribe or pueblo in the state of New
14 Mexico; and

15 (11) an organization that provides only brief
16 courses of instruction designed to teach specific skills that
17 may be applicable in a work setting but are not sufficient in
18 themselves to be considered a program of training for
19 employment. Normally, such instruction shall meet at least
20 three criteria:

21 (a) each course consists of no more than
22 forty hours of direct instruction or the equivalent;

23 (b) the tuition or fee charged for each
24 course of instruction does not exceed five hundred dollars
25 (\$500); and

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1 Mexico that is regionally accredited or seeking regional
2 accreditation by an accrediting agency approved by the
3 commission shall register with the commission.

4 B. A college or university registering with the
5 commission pursuant to this section shall provide curriculum
6 and enrollment information, financial information and all
7 publication materials requested by the commission. "

8 Section 5. Section 21-23-6.1 NMSA 1978 (being Laws 1994,
9 Chapter 108, Section 8) is amended to read:

10 "21-23-6.1. LICENSURE OF CAREER SCHOOLS--LICENSURE OF
11 CERTAIN COLLEGES AND UNIVERSITIES. --

12 A. [~~Any~~] A career school or nonregionally
13 accredited college or university operating in New Mexico shall
14 be licensed by the commission. It is unlawful to operate a
15 career school or nonregionally accredited college or university
16 without first obtaining a license from the commission.

17 B. [~~Any~~] A college or university operating in New
18 Mexico that is not regionally accredited or seeking regional
19 accreditation by an accrediting agency approved by the
20 commission shall be licensed by the commission in the manner
21 provided for career schools. It is unlawful to operate a
22 college or university that is not accredited or seeking
23 accreditation by an accrediting agency approved by the
24 commission without first obtaining a license from the
25 commission.

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1 C. No person other than an employee of an
2 institution licensed pursuant to this section shall, for a
3 salary or fee, solicit attendance at that institution."

4 Section 6. Section 21-23-6.2 NMSA 1978 (being Laws 1994,
5 Chapter 108, Section 9) is amended to read:

6 "21-23-6.2. LICENSURE STANDARDS--REQUIREMENTS--FEE
7 AUTHORIZATION.--

8 A. Every career school operating in the state shall
9 annually apply to the commission for licensure. The career
10 school shall apply on forms approved by the commission, shall
11 supply all information requested by the commission and shall
12 pay an annual licensure fee set by the commission.

13 B. The commission or its designee shall consider
14 information submitted by the career school, information from
15 independent accreditation bodies and information gathered
16 during visits to the career school in determining eligibility
17 for licensure.

18 C. The commission shall promulgate and file, in
19 accordance with the State Rules Act, rules [~~and regulations~~]
20 that:

21 (1) require each career school to supply
22 annually information regarding enrollment, program completion
23 by students, employment and other educational placements of
24 students and operating revenue budgets;

25 (2) provide standards and methods for the

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1 evaluation and appraisal of career schools;

2 (3) provide for a tuition refund policy;

3 (4) require maintenance of adequate records by
4 each career school and provide reasonable availability of
5 records for inspection;

6 (5) regulate the use of deceptive and
7 misleading advertising and determine what information shall be
8 furnished each student prior to enrollment;

9 (6) assure that any career school licensed
10 pursuant to the Post-Secondary Educational Institution Act has
11 entered into a teach-out agreement with at least one other
12 private or public institution operating in the state unless the
13 commission determines that such an agreement is not feasible;

14 (7) provide standards for the award of
15 associate, baccalaureate, master's and doctoral degrees;

16 (8) [~~encourage~~] require all [~~career~~] degree-
17 granting schools to seek appropriate external accreditation by
18 an agency recognized by the federal department of education as
19 a means of assuring quality instruction;

20 (9) name an advisory committee of education
21 providers and consumers, including owners and operators of
22 career schools;

23 (10) provide for the maintenance of records
24 for career schools no longer in operation;

25 (11) provide standards for the evaluation of

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1 the financial stability and ability to meet the commitments of
2 career schools;

3 (12) require each career school to adopt a
4 procedure for the resolution of student complaints; and

5 (13) establish other requirements necessary to
6 carry out the provisions of the Post-Secondary Educational
7 Institution Act.

8 D. The commission may solicit information
9 pertaining to the financial history and stability of a career
10 school and its owners, including information pertaining to
11 actions of bankruptcy filed within the immediately preceding
12 five years. The commission may consider such information in
13 determining eligibility for licensure. "

14 Section 7. Section 21-23-6.3 NMSA 1978 (being Laws 1994,
15 Chapter 108, Section 10) is amended to read:

16 "21-23-6.3. FEE AUTHORIZATION. --

17 A. The commission is authorized to establish
18 initial application fees for all colleges, universities or
19 career schools seeking to operate in New Mexico. The initial
20 application fee shall be not less than two hundred dollars
21 (\$200) or more than five thousand dollars (\$5,000). In setting
22 the fee, the commission shall consider the projected revenue of
23 the institution and the projected cost of performing the
24 review.

25 B. The commission [~~is authorized to~~] may establish

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1 an annual licensing fee for all career schools or colleges or
2 universities licensed by the commission. The licensing fee
3 shall be proportionate to each school's gross annual tuition
4 revenue; provided the fee shall be not less than two hundred
5 dollars (\$200) or more than five thousand dollars (\$5,000).

6 C. The commission may charge a reasonable
7 administrative fee not to exceed the actual cost of providing
8 the administrative service.

9 ~~[C.]~~ D. All fees imposed and collected by the
10 commission shall be deposited in the post-secondary educational
11 institution fund. "

12 Section 8. Section 21-23-10 NMSA 1978 (being Laws 1971,
13 Chapter 303, Section 9, as amended) is amended to read:

14 "21-23-10. DISCIPLINARY ACTIONS--CIVIL PENALTIES. -- ~~[No]~~

15 A. A person, firm or corporation may not:

16 ~~[A.]~~ (1) operate a career school within the
17 state until that career school has been licensed by the
18 commi ssi on;

19 ~~[B.]~~ (2) operate a regionally accredited
20 college or university within the state until that college or
21 university has registered with the commission;

22 ~~[C.]~~ (3) deny enrollment to or make any
23 distinction or classification of pupils in the program or
24 practices of any post-secondary educational institution under
25 the jurisdiction of the commission on account of race, color,

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1 culture, ancestry, national origin, sex, age, religion or
2 disability; or

3 ~~[D-]~~ (4) solicit, directly or through an agent
4 or employee, the enrollment of any person in a post-secondary
5 educational institution within the state by the use of fraud,
6 misrepresentation or collusion.

7 B. Whoever violates [~~any~~] a provision of this
8 section may be assessed a civil penalty not to exceed five
9 hundred dollars (\$500) per day per violation.

10 C. The commission may, after an investigation, take
11 any one or a combination of the following disciplinary actions
12 against any post-secondary educational institution licensed
13 pursuant of the Post-Secondary Educational Institution Act:

14 (1) revoke a license;

15 (2) impose a civil penalty; or

16 (3) impose probation requirements."

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